entrusting the validtiy of all the laws enacted to the integrity and competency of a clerk, not elected by the people, and usually unfamiliar with the duties devolving upon him under the constitution.

Is it to be presumed, and can we logically assume that the constitutional convention intended, that the journal, prepared by one man; or is usually the case, prepared by some stenographer acting for the clerk, seldom if ever read, understandingly, in the assembly, should take controlling prudence over the solemn act of the speaker of the house, the president of the senate, the clerks of the house and senate, and the governor of the state in signing and certifying to the fact that the bill duly passed and become a law. We do not belive such to have been the intention of the framers of the constitution, and the consequences of such a construction are so fraught with evil and uncertainty and will lead to such endless confussion, that it is clear the court should not so construe the language used, unless such is the only reasonable alternative.

Certainly as to what the law is, is greatly to be desired both by the court and the people. Courts take judicial knowledge of the statute law of the state and the people are bound to know the law at their peril. Ignorance of the law is no excuse. A legislative assembly meets and enacts certain supposed laws, which are published and distributed so that all may know what the law is. The people act under what they assume the law to be, from a reading of the published acts; courts administer the law under such supposed acts of the legislature; no question may be raised as to a certain act under which large property interests may have been acquired, or even criminal penalties prescribed or abrogated, until long years afterwards, some inquiring individual resorts to the legislative journal and discovers that some constitutional provision prescribing the method of procedure in the legislative assembly, is not shown to have been complied with. This, in some appropriate manner, is called to the attention of the courts, and the law is held never to have been enacted. And it must not be supposed that even one suit or action would finally settle the matter. We have several provisions in our constitution, prescribing what the legislature shall do in the enactment of laws. Some one provision had not been complied with; while another might invoke one might question a law because some other provision, and we would never definitely know that a statute had been enacted legally until the courts had said that each of such provisions had been complied with and that such fact was properly recorded in the journal, by the journal clerk. For illustration, Sec 12, Art IV provides:

"Each house shall keep a journal of its proceedings, and the yeas and nays on any question shall, at the request of one-fifth of the members present, be entered thereon."

Section 15, same article, provides:

"No bill, except bills to provide for the public peace health and safety, and the codification or revision of the laws, shall become a law unless it has been printed, and read three different times in each house," etc.

"No bill shall be passed except by a majority in each house, nor unless on its final passage a vote be taken by yeas and nays, and entered on the journal."

There may be other provisions of the same import, but certainly the above are sufficient to clearly demonstrate the uncertainty which will prevail, and the endless litigation which would ensue before it would become definitely known whether a given act had been constitutionally enacted.

(Here follows quotation from the case of Ex parte Wren, 63 Miss. 512, 56 Am. Rep. 825.)

Referring to the dangers which may attend the application of this rule, and the abuses to which it might be subjected, the supreme court of the United States, in the case of Marshall Field & Co. vs. Clark, 143 U. S. 649, 36 La. Ed. 294, said:

(Here we omit this quotation also.)

In the case of State vs. Jones, 6 Washington, 453 to 455, the court points out the effect of any such contention as that ...sled for by appellant in this case ...shows that if that were the proper ...octrine, in every case the courts and all inhabitants of the state must take notice of every step or proceeding in the legislature relating to the passage of bills so far as such steps are made obligatory upon the legislature by the constitution, and with such construction once sanctioned by the courts, no individual, no matter that he had acted in good faith, could protect himself from the results of his acts if, in fact, the journals failed to show that the act had not been regularly passed; that a person might, in fact, be committing a crime when he thought he was acting directly in accordance with the law.

The constitution of Montana provides that presiding officer of each house shall, in the presence of the house, sign all bills immediately after their titles have been publicly read, and the fact of signing shall be at once entered upon the journal." In a case decided by the supreme court of that state the journal omited to show the fact that the bill was signed by the presiding officer of each house, although the enrolled bill bore the signatures of the presiding officers. It will be seen that the constitutional provision was quite as strong and mandatory as the one in our constitution.

The constitution of Tennessee provides "that no bill shall become a law until it * * * shall have been signed by the respective speakers in open session, the fact of such signing to be noted on the journal." The supreme court of that state made some comment upon the fact that this clause did not use the mandatory word "shall" which was used in other portions of the same section, but this distinction does not seem to be sound. The court held that the bill in question was valid although the journal did not show the fact of the signing.

A dicision of the supreme court of New Jersey may perhaps be considered the ending case in the state authorities. In that case it is shown that the constitution of the state required each house to keep a journal of its proceedings and that the yeas and nays on any question should, at the desire of one-fifth of those present, be entered on the journal, and also that the yeas and nays of the members' vote on the final passage of a bill should be entered on the journal. It is said that these are all the constitutional requirements as to the journals. The court then says that it is impossible not to incline to the opinion that the framers of the constitution did not design to create records which were to be paramount to other evidence with regard to the enactment and contents of laws, and that at the time of the formation of the constitution, an act enrolled in the office of the secretary of state was conclusive as to the existence and provisions of the laws which it embodied, in this regard following the general English rule as to act of Parliament. The court goes on to consider, among other things, the unreliable character of legislative journals, and to show that if they are to be restored to at all their effect would be controllable, as the idea that upon this subject the courts need listen to parol proof is totally inadmissible. The opinion in the case is quite lengthy but is well worth reading in its entirety and is highly instructive as to the principles which should be applicable to any such question as is involved in the present discussion. The following quotation ought, however, to be of some value at this place:

(this quotation is also omitted.)

Pangborn v. Young, 32 N. J. L. 29, 36 to 39, 40-41. See also Cable Co. v. Attorney general, 46 N. J. Eq. 270, 272.

A comparatively recent decision of California is of special interest as it reviews earlier decisions in the state, the first of which, Fowler v. Pierce, 2 Cal., 165, held that the court could go behind the enrolled bill and inquire whether it was passed or approved in accordance with the constitution, while the later cases overruled that decision and held that neither the journal nor the bill originally introduced nor parol evidence could be received as against the properly enrolled and authenticated bill deposited with the secretary of state.

County of Yolo v. Colgan, 142 Cal. 265, 275.

Indiana is one of the states which supports our conclusion. In a case in 1869 the court said that the questions necessary to be considered were:

"1. Must the courts of this state take judicial knowledge of what is and what is not the public statuory law of the state? 2. When a statute is authenticated by the signatures of the presiding officers of the two houses, will the courts search further, to ascertain whether such facts existed as gave constitutional warrant to those officers to thus authenticate the act as having received legislative sanction in such manner as to give it the force of law?"

As to the first of these questions the court held, of course, that it must take judicial knowledge of what is the law, as even the private citizen must know it as his peril. The particular objection which was being urged in that case was that the bill was passed by less than a quorum of the house of representatives, and that this fact was shown by the journals, in connection with other evidence which was presented. The opinion points out that courts should be very careful not to invade the authority of the legislature, and that anxiety to maintain the constitution no matter how laudable, must not lessen their caution in that particular, because; by over-stepping the authority which belongs to them and assuming that would violate the very constitution which thereby they seek to preseve and maintain, as no person charged with official duties under the judicial department can exercise any of the functions of the legislative department.

(Continued to next week)

OSCURO

Rev. E. D. Lewis preached in the school house Sunday afternoon. His subject was "Brotherly Love." We can no longer hide behind the excuse "Am I my Brother's Keeper?" Henceforth there should be no more foreign missions but all should be merged into one big brotherhood. This war is pouring into our cornucopia of plenty millions of dollars, but it is a trust and God will require an accounting. Ours is the richest nation of the earth and growing richer fast, but he did not say that the Industrial Relations Committee had found that two per cent of the people owned sixty per cent of the wealth of the United States and that the average wage paid the working man is not sufficient to support a family in comfort and decency.

(Editor's Note:) Let us not condemn the 2 per cent who control 60 per cent of our wealth but rather congratulate them on their shrewdness. It is no more sinful to be rich than it is to desire riches. "The poor ye have with ye always." —The Bible.

At present writing Mrs. Sterling, mother of Will Sterling, is very sick and not expected to recover. All the children have been sent for and all found but one.

Burney Humphrey and two sisters, Misses Mayme and Margaret, and Mr. and Mrs. Andrew McCurdy spent Sunday with Dr. and Mrs. R. E. Blaney in their new home.

Ross McDonald lost the sight of one eye for a day or two. He went to El Paso to have them treated and can see a little better now.

The school children had a vacation of a week while the teachers attended the Teachers Association meeting at Albuquerque.

G. S. Morris has put a pebble dash front on his store building on Main street.

Frank Hewitt and Ray Stoddard spent Sunday at home.

Andrew Purcella has gone into the water service with the railroad.

Boge & Olsen have shipped a car of wild hay to El Paso.

NOGAL

Rev. Claud Fourth is moving to the Gatewood place in Nogal.

Boyed Zumwalt and family have moved to Jose M. Vega's ranch.

George Whitaker has moved to Carrizozo.

Rev. Hoover of Estancia is expected to hold services here next Sunday.

Mrs. Branum who is in El Paso for treatment is improving and expects to return to her home in Carrizozo soon.

The people of Nogal and vicinity are very thankful to the parties who have made some substantial repairs on the old town hall which was rapidly going to decay. They should be remembered for the outlay.

The dance given in the town hall Thanksgiving night was certainly a corker. The hall was full and at midnight a sumptuous feast was had from the remains of the Thanksgiving dinner. After the supper was served, triping of the light fantistic toe was resumed and lasted until half past three in the morning when partings took place with the sad refrain, when shall we, all meet again.

IRL R. HICKS ALMANAC

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